
A SHORT ANSWER, &c.

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TO THE
DECLARATION
OF THE
PERSONS
CALLING THEMSELVES
THE FRIENDS
OF THE
LIBERTY OF THE PRESS,
BY
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1793.

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JOHN BATES

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OF THE

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AN ANSWER, &c.

AT a critical moment, when Britons from one corner of the kingdom to the other, have judged it necessary to form themselves into associations, for the maintenance of the Constitution, which had been most daringly insulted and menaced, the public see with surprize, but not without indignation, a Counter Association rising up, protesting against the other Associations, and endeavouring to counteract their effect. The gentlemen thus assembling themselves in so singular and extraordinary a manner, have thought fit to assume the appellation of Friends to the Freedom of the Press. But those who observe the licentious excess to which the Freedom of the Press is still daily

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carried,

carried, will be of opinion that it stands in no great need of the proffered protection of this new-formed phalanx of defenders.

At the second meeting of these gentlemen they entered their formal protest, by way of declaration, against those Associations which had been formed for the preservation of the public tranquillity, and for the continuance of the prosperity, and of the constitutional rights of this free and happy Country. There is but little danger that this protest should mislead any one who is at all acquainted with the principles and practice of the British Constitution, particularly in that important part of it which relates to the administration of criminal justice. But as the work in question assumes the form of argument, it may not be amiss to suggest a few observations (though perhaps sufficiently obvious in themselves)

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tending to point out the fallacy of the principles on which it is founded.

The fundamental principle of this performance, that the power of accusation against offenders who have violated the laws is confined to the supreme executive Magistrate, is in direct contradiction both to the principles and the daily practice of the judicial polity of this Country in criminal cases. In point of fact, every individual has been, from time immemorial, admitted, in his private capacity, and in the character of a prosecutor, though in the name of the King, to call for the execution of the laws upon those who have violated them. In point of law, it is the undoubted constitutional privilege of every individual to exercise that right. In point of principle, such a right is inseparable from a free state, where the laws are the birth-right of every one, and the violation of the laws is an injury to the people at large, of which every

one has a right to complain. The maxim of these pretended friends to liberty might be admitted under a despotic Government, where it is convenient, and perhaps necessary, that the executive power may either administer or withhold justice at its discretion. But in a free country, the execution of the laws, according to prescribed forms, must be ever at the call of the people ; and it would be destructive of all liberty and security, if the Crown, or its agents, could, either by design or neglect, refuse, prevent, or retard the administration of justice. It is therefore one of the greatest advantages derived from the British Constitution, that while the admirable institutions of Grand and Petit Juries afford the most absolute security that justice shall be faithfully and impartially administered, the executive power is bound to lend its agency to every one who demands it in the pursuit of so important an object. Nor can any
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just cause of complaint arise from hence; since every one standing forward in the character of a prosecutor, is responsible to the accused person, and to the public at large, for the purity of his motives, and the regularity of his conduct. It never yet, I believe, occurred to any one, to object to a prosecution because it was set on foot by private individuals:—such a ground of objection was reserved for the discovery of the Friends of the Liberty of the Press. But if, at their suggestion, it should occur to any culprit to avail himself of such mode of defence, he will only find himself deceived, and his objection will certainly be over-ruled, unless the whole frame and system of criminal justice in this country should be subverted.

Particular care is taken in the protest alluded to, to deny the right of accusation to *uninjured* individuals; suggesting thereby a distinction with which the criminal law is
unacquainted;

unacquainted ; for that branch of our laws knows nothing of the private and separate injuries of individuals, but denounces punishment only upon offences against the community ; therefore it is totally immaterial in the character and situation of a prosecutor, whether he has sustained any private injury or not : but as every one is supposed to be injured by the violation of the laws, every one is intitled to call for justice. And private wrongs are merged in the more important consideration of the public security.

In short, the fundamental principle of the protest, negating the right of individual accusation is so glaringly fallacious, that it is impossible to account for its being adopted by intelligent men, on any other supposition, than that they considered it as a necessary ground, on which to cavil at those Associations which are now formed in every quarter of the kingdom for the preservation

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tion of the public security, and of the Constitution itself. It is undoubtedly a principal object of these Associations that individuals should unite, and engage to lend assistance to the civil magistrate, in discovering and bringing to justice offenders of the most dangerous description; those who endeavour to subvert the very basis of our civil rights, and of our social happiness. But the right of individual accusation against public offenders being once established, it follows as a necessary consequence, that private persons may act either separately or jointly in promoting, by regular means, the due execution of the violated laws. And on particular occasions, it is a duty they owe to themselves, and to society, to co-operate with and assist each other in detecting and denouncing offenders to the civil magistrate, that he may put into exercise the grand Constitutional spring of justice, Trial by Jury. Here also daily and
 general

general practice confirms the right which seems obnoxious to these gentlemen who appear so anxious for what they choose to call the Freedom of the Press. For besides that, Associations have repeatedly been formed for the purpose of checking by prosecution the growth of particular offences, the suppression of which seemed to call for remarkable vigilance and activity (of which the case of swindling affords an instance) there is scarcely a Parish in the Kingdom where the inhabitants are not united upon a similar principle, to prevent the perpetration of those ordinary crimes, which tend more immediately to invade their common security. It is really surprising, that the zeal of these protesting gentlemen never discovered any deviation from constitutional principles in such instances. But while, by their long and uninterrupted silence, they have recognized the legality of the principle on which these ordinary associations

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have been formed, (affording thereby their own faction to that principle, they are now driven to the miserable shift of denying it altogether, in order to prevent its application to an extraordinary case, in which they choose to take a particular interest. It is true, lest other grounds should fail them, they particularly allude to what they call *State Accusations*. But surely it is not possible by technical or formal distinctions, to confound the plain sense of Englishmen so as to make them believe that they have not the same constitutional rights and means of defence against those offences which aim at the total subversion of society itself, as they possess in those cases where the tendency and the consequences of the crime are much more limited and attended with infinitely less danger to the community. In the discussion of general principles, no good can be derived from personal allusions; otherwise, the particular tenderness of the gentlemen,

tlemen in question for the class of offenders
 whom they wish to exempt from the ordi-
 nary modes of prosecution, might afford a
 very fertile field of conjecture. But the
 plain dictates of common sense, operating
 upon an unbiassed mind, must suggest, that
 if there be any species of crime that seems
 more immediately levelled at the govern-
 men of a country, the least invidious mode
 of pursuing justice in such cases must be to
 resort to those forms of prosecution which is
 the most unconnected with the officers of
 government. Perhaps the impediment to
 justice necessarily occasioned by the delays
 attending prosecutions commenced by the
 Crown Officers, may, with some persons,
 operate as a recommendation; and give such
 forms a decided preference over the more
 speedy proceedings of the Quarter-Sessions.
 And if once such prosecutions could be re-
 stricted to the interference of Government,
 the object would then be by cavil and by
 clamour

clamour to obviate their effect, if not to render them obnoxious.

It is suggested, that the Affociations which have given so much offence tend, by creating a prejudice, to deprive persons accused of seditious writings or practices of a fair trial. Such suggestion is very far from being complimentary to Juries. What! are we to be told that Jurymen can be rendered less cautious, less tender, less conscientious, with regard to persons accused of an offence, because the offence itself is a just object of particular alarm and indignation? To assert that, is to deny the grand excellency of Trial by Jury, viz. that let the circumstances of the case or of the times bear ever so hard upon the culprit, he is sure to receive impartial justice at the hands of his Peers. With equal reason it might have been urged, that the insuperable abhorrence naturally excited by the crime of murder, tends to

deprive persons accused thereof of a fair trial.—Nay, to allude to a recent instance, was it in the power of all the prejudice which existed against the person called The Monster (and more prejudice could never exist in any possible case) to deprive him of the advantage of a fair and candid investigation? And if among the numerous and recent cases of prosecutions for seditious writings, a single instance could have been adduced, where the defendant had not received an impartial trial, it would not have escaped the vigilance of the Friends of the Liberty of the Press.

It deserves notice, that these insinuations, so unfavourable and uncandid to Jurymen, proceed from persons who are foremost on all occasions to profess their attachment and their respect to the mode of Trial by Jury; from persons who distinguished themselves in the framing and supporting of the Libel Bill; and who lose no occasion of making
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that measure their theme of boasting and self-applause. How are such inconsistencies to be reconciled, but by supposing that, whatever was pretended, the real motive which prevailed with *them* on that occasion was a hope of furnishing seditious writers with some security against conviction; and that though the experiment has hitherto failed, the idea is not abandoned, that in more favourable times, when, according to the possibility which is never lost sight of, "*the best government may become unpopular* *," the measure may succeed better, according to the real intent of those who framed it.

It is also deserving of observation, that the persons who step forward on this occasion, in defiance of the voice of the nation (and who, far from paying any deference to that voice, declare that they will unceasingly persevere in opposing it) assume the honour-

* See the Declaration, page 11.

able appellation of Friends of the Freedom of the Press. The term, Freedom of the Press, may be used either to signify *that* salutary freedom which is characteristic of a free people, or *that* licentious freedom which knows no bounds, which defies all law, order, and decorum, and which is a most destructive engine both to the Press, and to every other barrier of the Constitution. It is a question both curious and interesting, in which of the above senses the Freedom of the Press is befriended by these gentlemen. If we judge of that question from the occasion on which they now step forward, there is every appearance of their having assembled in direct and insolent defiance of the honest verdict of twelve Jurors, who had just before supported the sound and constitutional Liberty of the Press, by convicting the most infamous Libeller of the Constitution this Country ever knew : such a construction is also strongly fortified by

by the vote of thanks, given at their first meeting at Free Mason' Hall, to a learned Advocate, for having exerted his extraordinary powers (but happily for the Country to no effect) in endeavouring to prevent that conviction. With all possible liberality of allowance for the latitude of professional exertions, this extraforensic proceeding, incapable of any such explanation, could be ascribed only to an attachment to the cause; an attachment of that sincere and ardent nature, which is augmented by difficulties, and which shines brightest in misfortune.

The salutary Freedom of the Press has been long exposed to the greatest danger, by the most daring and scandalous excesses. But the protection of these its professed friends has been withheld till the country at large, shocked and alarmed at the enormous extent of the evil, demanded that the Abuses of the Press should be subjected to the wholesome restraint of the Laws. If the
formation

formation of a party, at such a juncture; to defend the Freedom of the Press, could leave any doubt, whether it were the sound Constitutional Freedom, or the licentious and unconstitutional Abuse of the Press, that was likely to be thus defended, it would certainly be candid to refer that question to those persons who seek, by means of the press, to subvert all order and government; and to introduce anarchy and confusion. The probable answer of such incendiaries (if their real sentiments could be obtained) would be, *that their drooping hopes were revived when they saw these gentlemen stand forward in such a manner—that they derived from thence encouragement and support; and that without such assistance, their case would have been absolutely desperate; that they were penetrated with gratitude for the subscription which was generously resolved upon to assist them in eluding justice, or to meliorate their condition, should the law lay hold of them—that they admired the*
judgment

judgment of these their best friends in choosing their ground ; as the only chance for success to the common cause lay in endeavouring to confound with the liberty, the licentiousness of the Press, in blinding the sense of mankind to the too obvious difference between theory and sedition, and in vociferating upon all occasions, that the sacred right of freedom of sentiment, was mortally wounded by every successful attempt to punish treasonable or seditious publications, however glaring their malice, or dangerous their tendency :” perhaps these worthy persons might add, that they particularly wish their friends to persevere till they can establish their choice doctrine, that no writing should be deemed seditious, unless, besides the writing itself, some overt act should be proved in support of the charge ; and that, if once the protection of such a maxim could be obtained, they would take upon themselves to answer for the rest.

It is impossible to conclude without noticing the coolness and intrepidity of these Gentlemen, with regard to those dangers

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which

which have agitated and alarmed the whole country. It may be gathered from their protest upon this occasion, that their minds are quiet and free from apprehension as to the danger, though exceedingly alarmed at the defence. The Associations which had for their object the subversion of the Constitution, neither excited their fears, nor called forth their censure.—But no sooner are Associations formed for the maintenance of the Constitution and of the Laws, than they are full of apprehension and ready with reproof. Shewing thereby that, however ready they always are, (in their professions at least) to bow to the public opinion, they can, when it suits their purpose, fly in the face of the country, and insult its universal sentiments and feelings. Their suggestion that the present alarm of imminent danger, has been spread through the Kingdom by the Ministers of the Crown, is not at least very decent. The people are certainly not much obliged by the supposition,

tion, that their senses and understandings can be played with at pleasure by Ministers. But the fallacy of this insinuation is as obvious as its indecency is reprehensible; for nothing was ever more plain, than that the people judged of their own danger by their own senses;—that the conduct of Ministry which is thus censured, was in the most perfect unison with the public voice;—and that it rather followed than led the general wish and the honest conviction of an enlightened Nation.

The general, spontaneous, and independent voice of the people has been expressed with a fervour and an unanimity beyond the example of any former period. The Associations, in affording an unequivocal testimony, and an eternal memorial of that voice, have not only guarded the constitution from immediate danger, but have also testified to the whole world that it is impregnable. The associators at the Crown and Anchor are entitled to the peculiar satisfaction

tisfaction of reflecting that they led the van at a momentous and apparently perilous juncture. The universal imitation of their example, affords the best possible commendation of their conduct, and holds out to them the noblest reward—the approbation of their countrymen. In full possession of this reward, they must see with indifference the cavils of those who are hostile to their cause, and who repine at its success. Their best answer to such cavils, is a reference to their principles and proceedings; and as that reference cannot be made with more fairness and impartiality than by a recital of the Plan, which in the early part of their institution they ventured to recommend for the formation of similar Associations, it may not be amiss to subjoin hereto a copy of that Plan, which has been literally adopted by a great number of the Associations formed in various parts of the country, and which may be considered as *instar omnium* in point of substance.

A Plan

*A Plan recommended by the Society at the Crown
and Anchor, for forming other Societies for
preserving Liberty and Property against Re-
publicans and Levellers.*

WE whose names are hereunto sub-
scribed,

Considering it to be at all times the con-
stitutional right of Englishmen to promote,
either separately or jointly, but by regular
means, the due execution of the violated
laws; and,

Conceiving that the present moment calls
loudly upon all good Citizens to exert the
above right against those who disturb Society
by seditious or treasonable practices—

Sensible also of the advantages which we
and all our Fellow-citizens derive from that
glorious Constitution which was established
by the wisdom and valour of our ancestors—
determined to maintain, with our lives and
fortunes, that Constitution, together with
our rights and liberties which grow out of
it,

it, and to transmit the same to our posterity
—and actuated by a steady and affectionate
loyalty to our beloved Sovereign—

Do solemnly declare and resolve,

FIRST, That we will jointly and severally,
by such means as the law allows and pre-
scribes, exert our vigilance and activity in
discovering and bringing to justice all per-
sons who shall, either by publishing or dis-
tributing seditious papers or writings, or by
engaging in any illegal associations or con-
spiracies, endeavour to disturb the public
peace, or excite disaffection to the lawful
government of this country,

SECONDLY, That we will do all in our
power to aid and assist the Civil Magistrate
in maintaining the general tranquillity, in
suppressing all riots and disturbances that
may arise in this , and in bringing
the authors and promoters thereof to con-
dign punishment.

THIRDLY, That we will, by the distri-
bution of Constitutional writings, and by
every other effort of calm reasoning, en-
deavour to undeceive and inform such per-
sons as may have been misled by the delu-
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five and inflammatory suggestions of evil-
 designing men, who seek to excite a gene-
 ral spirit of restlessness and discontent, in or-
 der to subvert that rational system of liberty
 and order which alike consults the real hap-
 piness of all classes of Englishmen.

And we do invite all friends to peace and
 tranquillity, residing in this

to join with us in the above declaration and
 resolutions, by signing their names thereto.

Such are the principles on which are
 formed the Associations protested against by
 the Friends of the Liberty of the Press.—
 Principles as legal and constitutional in
 themselves, as their object is important,
 and as the assertion of them at this time
 has been seasonable and useful. One thing
 only remains—to pursue with vigour and
 vigilance what has been begun with such
 unanimity and success. The moment of
 danger is not over. Let not the season of
 watchfulness expire. The foes to order and
 good government, though checked, are not
 subdued.

subdued.—As long as Anarchy shall reign in a neighbouring country, the project of introducing it into this will not be abandoned. The friends of the Constitution have stood forth manfully and successfully at a critical juncture. They have one duty more—to keep awake on their Posts.



Such are the principles on which are formed the Affiliations protected against by the friends of the Constitution in themselves, as it is important, and as the effect of them at this time has been lessened and wretched. One thing only remains—to pursue with vigour and vigilance what has been begun with such unanimity and success. The moment of danger is not over. The loss to order and tranquillity expires. The loss to order and good government, though checked, are not